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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/729,373	12/08/2003	Markus Beylich	037141.53041US	8145

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EXAMINER

TRAN, BINH Q

ART UNIT PAPER NUMBER

3748

DATE MAILED: 05/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/729,373

Applicant(s)

BEYLICH ET AL.

Examiner

BINH Q. TRAN

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 12/08/2003.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

Claims 1-3, and 5 are rejected under 35 U.S.C. 102 (b) as being anticipated by Miyagi (Patent Number 4,207,737).

Regarding claims 1 and 3, Miyagi discloses a method of controlling a secondary air stream (8) in an exhaust system (7) of an internal combustion engine (1) of a motor vehicle equipped with an accelerator pedal (e.g. 16, 17), wherein engine actuation signals and sensor signals (e.g. 11, 17, 59) from an engine control system (12) are evaluated in a secondary air control unit and used as control parameters for regulating the secondary air stream, said method comprising sensing the position of the accelerator pedal, transmitting a signal representing the sensed position of the accelerator pedal to the secondary air control unit, and regulating the secondary

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air stream in response to the sensed position of the accelerator among other control parameters (e.g. See col. 3, lines 20-67; col. 4, lines 1-36).

Regarding claim 2, Miyagi further discloses that the sensed position of the accelerator pedal is evaluated in a central engine control and used to control at least one other engine function (e.g. See col. 7, lines 2-67; col. 8, lines 1-5).

Regarding claim 5, Miyagi further discloses that means for transmitting the signal representing detected mechanical displacements of the accelerator pedal to the control unit for regulating the introduction of secondary air into the exhaust system comprises a vehicle-internal bus system which also transmits said signal to other engine control systems (e.g. See col. 3, lines 20-67; col. 4, lines 1-36).

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Miyagi in view of Nagami et al. (Nagami) (Patent Number 5,388,403).

Regarding claim 4, Miyagi discloses all the claimed limitation as discussed above except that a storage catalytic converter connected downstream of said catalytic converter.

Nagami teaches that it is conventional in the art, to use a storage catalytic converter (20) connected downstream of said catalytic converter (17) (e.g. See col. 2, lines 20-56).

It would have been obvious to one having ordinary skill in the art at the time the invention was made, to use a storage catalytic converter connected downstream of said catalytic converter of Miyagi, as taught by Nagami for the purpose of absorbing the NO_x when the air-fuel ratio of the exhaust gas flowing into the absorbent is lean, and releasing the NO_x when the air-fuel ratio of the exhaust gas flowing into the absorbent is rich; so as to reduce the poisoned materials in the purifying catalyst and to reduce amount of nitrogen oxides in the exhaust gas of the lean-burn engine, and further improve the performance of the engine and the efficiency of the emission device.

Prior Art

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure and consists of five patents:

Takata et al. (Pat. No. 4068472), Manaka et al. (Pat. No. 5992143), Ittner et al. (Pat. No. 6044643), Ziemba et al. (Pat. No. 6637191), and Maruoka (Pat. No. 3779015) all discloses an exhaust gas purification for use with an internal combustion engine.

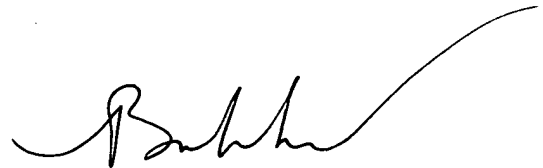
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Binh Tran whose telephone number is (571) 272-4865. The examiner can normally be reached on Monday-Friday from 8:30 a.m. to 5:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas E. Denion, can be reach on (571) 272-4859. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications and for After Final communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

BT
April 30, 2005



Binh Q. Tran
Patent Examiner
Art Unit 3748